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United States District Court

Middle District of Pa. - Scranton Division

3:09-CR-272-1

United States of America

Case Number- 3:09-CR-272-01

Michael T. Conahan

In the United States District Court for the Middle District of Pa.,
Scranton Division - Emergency Motion for Compassionate
Release Pursuant to 18 U.S.C. § 3582 (c)(1)(A)

I. Factual and Procedural History

On Sept. 23, 2011, Mr. Conahan was sentenced by the late
Honorable U.S. District Judge Edwin M. Houck to be
imprisoned for a total term of 210 months and 3 years
of supervised release. Mr. Conahan is currently being served
at the Miami Federal Prison Camp in Florida. Mr. Conahan
has served 105 months of this sentence (8 1/2 years).

2) The Petitioner, Michael T. Conahan ('Mr. Conahan'), Prs. Se,
respectfully moves this Court to grant his motion
for Compassionate Release under 18 U.S.C. § 3582 (c)(1)(A),
and order the remainder of his sentence to be served on
home confinement or sentence reduced to time served.
This motion should be granted due to the "extraordinary
and compelling reasons" exporting the Federal Prison
System by the COVID-19 pandemic in combination

with Mr. Conahan's age of 68, not a danger to the public, with no violent past and is listed by the BCP medical Staff as Chronic #2 with High Blood Pressure, heart issues, having suffered from Malaria Fever than not able to take future flu shots. Mr. Conahan is in grave danger of not only contracting the virus, but of dying from the virus. The chances are drastically heightened by his imprisonment and the close living conditions to which he is subject. He has no ability to socially distance or isolate himself since he is completely reliant on others for food and basic living essentials while on lock down, including but not limited to sanitary measures.

Mr. Conahan has "extraordinary and compelling reasons" to have his sentence modified because of the great risk that COVID-19 poses to a person of his age with underlying health conditions. He is not a danger to the community and his release to Home Confinement or Sentenced reduced to time served adheres to the mandates of Section 3553(a) particularly in light of the cataclysmic words of the current pandemic. I respectfully ask the Court to consider this Motion on an expedited basis as the risk to Mr. Conahan's life multiplies exponentially with each passing day.

II. This Motion is properly before the Court - Waiver of the Exhaustion Requirement

Because of the urgency of the spread of COVID 19, Mr. Graham asks the Court to waive the thirty day period for any response by a warden of the Federal Bureau of Prisons (BOP) under 18 U.S.C. § 3582 (c)(1)(A). On Dec 21, 2018 the First Step Act became law. Congress amended 18 U.S.C. § 3582 (c)(1)(A) to provide the sentencing judge jurisdiction to consider a clemency motion for reduction of sentence based on, "extraordinary and compelling reasons whenever the defendant has fully exhausted all administrative rights to appeal a failure of the BOP to bring a motion on the defendant's behalf, or the lapse of 30 days from receipt of such a request by the warden of defendant's facility, whichever is earlier". First Step Act of 2018, § 403(n). Courts throughout the country have waived the administrative exhaustion requirement under the First Step Act where circumstances warrant. See *Washington v BOP*, No. 1:19-cv-0166, 2019 WL 6255786 (N.D. Okla July 3, 2019) that "the failure to exhaust administrative remedies may be excused if seeking administrative remedies would be futile". See also *United States v Jones*, 3:11 cv 249, ECF No 47, at 3 (E.D. Va. Apr 3, 2020), Judge Leach waived the exhaustion requirements, stating, "Given Jones' unique circumstances and the urgency of rapidly advancing pandemic, requiring Jones to exhaust administrative remedies would be undue prejudice and render exhaustion

of the full BOP administrative process with futile and inadequate." This finding in Jones, that COVID-19 pandemic warrants waiver of exhaustion of administrative remedies in cases is well founded given all the available information.

Waiting 30 days to exhaust Administrative remedies completely defeat the purpose of this emergency motion, which is seeking urgent relief. In these dire circumstances the Court should waive the administrative exhaustion requirement in § 5522 and find Mr. Graham has shown that waiver of the exhaustion requirement is justified.

III Sentence Reduction Authority

This Court has authority to order Mr. Graham immediate release to home detention or sentence reduced to time served under the Compassionate Release Statute in 18 U.S.C. § 3582(c)(1)(A)(i) as modified by the First Step Act, Section 3582(c)(1)(A)(i) states in relevant parts that the Court "may reduce the term of imprisonment, after considering the factors set forth in [18 U.S.C. § 3553(a)] to the extent they are applicable, if it finds that ... extraordinary and compelling reasons warrant such reduction.

Mr. Graham seeks relief under this catch all provision extraordinary or compelling reason. The unique health issue, his age, circumstances of his case and the simultaneous COVID 19 outbreak present a compelling and extraordinary circumstances

That warrant Compassionate release for Mr. Conahan

Thus, Mr. Conahan moves this Court to order his immediate Compassionate release and convert the remaining days of incarceration to additional days of Home Confinement or Sentence reduction to time served.

Respectfully Submitted

Mike Conahan

Certificate of Service

I hereby certify that the foregoing document was filed with the Clerk of Court - Southern Division, and that the foregoing document has been served via U.S. Mail on the following on this day 3 ~~of~~ May, 2020

Mike Conahan

- U.S. Atty General Seeger, U.S. Federal Court House, Western Hwy, Spartan, Pa.
- assigned judge for the late Honorable Judge Roske, U.S. Federal Court House Western Hwy, Spartan, Pa.

Certification and Proposed Call

I hereby certify that the above statements are
declarations of truth and correct to the
best of my knowledge, information, and belief,
and I understand that any false or
misleading statements contained in this document may cause
adverse action under the pains of penalties and perjury.

Respectfully submitted this 3 day May 2020

Wade Conatser # 15004-027

Federal Prison Camp

P.O. Box 779600

Miami, Florida 33177

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May 13, 2020

Clerk
U.S. Courthouse
Federal Building
235 North Washington Avenue
Scranton, PA 18503

via FedEx Overnight

RE: United States of America v. Michael T. Conahan
No. 3:09-CR-272-1

Dear Clerk:

On behalf of the Defendant, Michael T. Conahan, we are forwarding for filing in the above-captioned matter the original and two (2) copies of his *pro se Emergency Motion for Compassionate Release*. A true and correct copy of the motion has been served on counsel for the Government this day by regular mail.

Thank you for your attention to this *pro se* filing.

Sincerely yours,


William C. Costopoulos, Esquire

cc: Fran Sempa, Assistant U.S. Attorney (w/ encl)

Encl.



ORIGIN ID: GTYA (717) 761-2121
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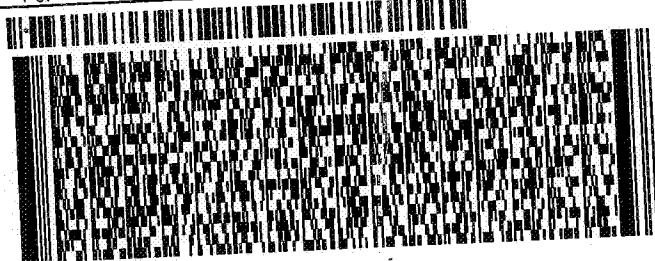
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